

REMARKS

Claims 1 and 3-20 are pending and stand rejected. Claim 1 is amended. Support for the amendment can be found, *inter alia*, at paragraphs [0051] and [0064] of the specification.¹ No new matter is introduced.

Applicant has reviewed the Office action, including the Examiner's remarks and the references cited therein. Applicant submits that the following remarks are fully responsive to the Office action, and that all pending claims are patentable over the cited references.

Rejections Under 35 U.S.C. § 103

Claims 1, 3-6, 10, 11, 19, and 20

The Examiner rejects claims 1, 3-6, 10, 11, 19, and 20 under 35 U.S.C. § 103 as obvious over United States patent no. 6,001,093 ("Swanson '093") in view of United States patent no. 3,773,034 ("Burns"). In the alternative, the Examiner rejects claims 1, 3-6, 10, 11, 19, and 20 as obvious over the combination of Swanson '093, Burns, and United States patent no. 6,171,306 ("Swanson '306"). Applicant respectfully disagrees.

Though the prior art references need not teach or suggest each and every limitation of a claim for that claim to be obvious, Applicant contends that the differences between the rejected claims and the references cited are sufficiently great so as to render the claimed invention non-obvious to one of ordinary skill in the art at the time the invention was made. MPEP § 2141 ("[T]he focus when making a determination of obviousness should be on what a person of ordinary skill in the pertinent art would have known at the time of the invention, and *on what such a person would have reasonably expected to have been able to do in view of that knowledge.*") (emphasis added). As discussed in greater detail below, Applicant contends one of ordinary skill in the art would not have learned the claimed invention from the asserted references because the asserted references do not teach or suggest each and every element of the claimed invention.

¹ Paragraph references are to the application as published, United States patent application publication no. 2005/0004440 (Jan. 6, 2005).

As amended, claim 1 recites that the tubular body includes “at least one ablation fluid supply lumen extending through the at least partial curve of the distal end region and including at least one manifold to permit a fluid to exit the at least one ablation fluid supply lumen[.]” Claim 19 similarly recites “at least one lumen including at least one manifold located along the at least a partial curve to permit a fluid flowing within the at least one lumen to exit the tubular shaft through the at least one manifold”

By way of further explanation, “[t]he tubular body includes an ablation fluid supply lumen adapted to provide ablation fluid to the looped portion of the catheter. . . . The manifolds provide a conduit for directing ablation fluid from the ablation fluid supply lumen fairly uniformly through each manifold around the loop.” Specification, ¶ [0051]. In some embodiments of the invention, “[t]he inner lumen or ablating fluid lumen 70 provides a flow path for saline or another ablating fluid to flow along the tubular body of the catheter to a plurality of manifolds 72 arranged along the ablation region 42 of the catheter. . . . As the fluid flows through the manifolds, it encounters an energized electrode 74 which heats the fluid within the manifold. The heated fluid flows out of the manifold and against a target tissue to ablate the tissue. Moreover, the fluid also provides a conduction path for the ablation energy to the target tissue to ablate the target tissue.” *Id.*, ¶ [0064].

Applicant respectfully submits that neither Swanson ‘093, Burns, nor Swanson ‘306 teaches or suggests this aspect of the present invention. Indeed, the Office action does not discuss this aspect of the present invention at all, suggesting that the Examiner implicitly recognizes it cannot be found in the asserted references. Thus, the combination of references necessarily fails to teach or suggest this aspect of the present invention. It follows that one of ordinary skill in the art would not have learned the claimed invention from the asserted references whether considered alone or in combination.

For at least the foregoing reasons, Applicant respectfully submits that claims 1 and 19 are substantially different from, and therefore non-obvious over, the combination of Swanson ‘093 and Burns, or, in the alternative, the combination of Swanson ‘093, Burns, and Swanson ‘306. Claims 3-6, 10, 11, and 20 are non-obvious for at least the

same reasons as the claims from which they depend are non-obvious. Reconsideration and withdrawal of the rejections of claims 1, 3-6, 10, 11, 19, and 20 as obvious is respectfully requested.

Claims 7-9

The Examiner rejects claims 7-9 under 35 U.S.C. § 103 as obvious over Swanson '093 and Burns in view of United States patent no. 6,600,956 ("Maschino"). In the alternative, the Examiner rejects claims 7-9 as obvious over the combination of Swanson '306, Swanson '093, Burns, and Maschino. Applicant respectfully disagrees.

Claims 7-9 depend from claim 1. The shortcomings of the combination of Swanson '093 and Burns with respect to claim 1, whether considered with or without Swanson '306, are discussed at length above and are not cured by the addition of Maschino. Accordingly, Applicant submits that the claimed invention is substantially different from, and therefore non-obvious over, the asserted references. Applicant respectfully requests reconsideration and withdrawal of the rejections of claims 7-9 under 35 U.S.C. § 103.

Claims 12-18

The Examiner rejects claims 12-18 under 35 U.S.C. § 103 as obvious over Swanson '093 and Burns in view of United States patent no. 5,499,981 ("Kordis"). In the alternative, the Examiner rejects claims 12-18 as obvious in view of the combination of Swanson '093, Swanson '306, Burns, and Kordis. Applicant respectfully disagrees.

Claims 12-18 depend from claim 1. The shortcomings of the combination of Swanson '093 and Burns with respect to claim 1, whether considered with or without Swanson '306, are discussed at length above and are not cured by the addition of Kordis. For example, Kordis neither teaches nor suggests "at least one ablation fluid supply lumen extending through the at least partial curve of the distal end region and including at least one manifold to permit a fluid to exit the at least one ablation fluid supply lumen" as recited in claim 1.

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Applicant therefore respectfully submits that the claimed invention is substantially different from, and therefore non-obvious over, the asserted references. Applicant respectfully requests reconsideration and withdrawal of the rejections of claims 12-18 under 35 U.S.C. § 103.

CONCLUSION

In view of the foregoing remarks, Applicant respectfully submits that the application is in condition for allowance, and requests that all rejections be withdrawn, that all pending claims be allowed, and that the application be passed to issue. If, for any reason, the Examiner finds the application to be in other than condition for allowance, the Examiner is invited to contact the undersigned in an effort to resolve any matter still outstanding before issuing another action.

Applicant has provided for a one month extension of time concurrently herewith. Should any further extension of time be deemed necessary for this paper to be considered timely, Applicant hereby petitions therefor under 37 C.F.R. § 1.136.

Authorization is hereby granted to charge any fees due with the filing of this document, including fees for any further extensions of time deemed necessary, to Deposit Account No. 50-1129 with reference to Attorney Docket No. 0B-044900US/82410-0195.

Respectfully submitted,

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